

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 18486 of 1994

Between:

R.Mohan son of Venkatamuni
Tirupathi, Chittoor Dist

..... PETITIONER

AND

- 1 The Executive Officer Tirumala Tirupathi Devasthanams
Tirupathi, Chittoor Dist
- 2 The Principal S.V.Ayurvedic College
T.T.Devasthanams , Tirupathi,
Chittoor Dist

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more especially one in the nature of Writ of Certiorari and call for the records relating to the Memo. ROC.No. E3/33074/94 dated 23/9/1994 from the file of the first Respondent and after pursuing the same quash it as arbitrary, discriminatory, violative of Article 14 and 16 of the constitution of India and without jurisdiction by holding that the petitioner is entitled to hold the post of Attender in TTDs. Service.

For the Petitioner: MR.V.JAGAPATHI, Advocate

For the Respondents: MR.R.VENKAT RAO, Advocate

The Court Made the Following :

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21540 of 1995

Between:

R.Mohan, S/o.Venkatamuni, aged about 29 years,

Attender, TTD Service at Kapileswaram

R/o.Kapileswaram, W.G.Dist.

.. Petitioner

And

1. The Executive Officer,
Tirumala Tirupathi Devasthanams, Tirupathi

2. The Executive Engineer-VI,
TTDs Kalyananamandapam, Vijayawada

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue a Writ, order or direction particularly in the nature of Writ of Certiorari calling for the records relating to the issuance of the Memo Roc.No.E3/33074/94, dated 11.9.1995 from the file of the 1st respondent and after perusing the same quash the same Memo.

For the Petitioner: MR.V.JAGAPATHI , Advocate

For the Respondents.: MR.R.VENKAT RAO, Advocate

The Court Made the Following :

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HONOURABLE SRI JUSTICE K.C.BHANU

-
W.P.No.18486 of 1994 and W.P.No.21540 of 1995

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COMMON ORDER:

These two writ petitioners raise common questions of fact and law and accordingly they are dealt with by a common order.

Both the writ petitions are filed challenging the Memo Roc.No.E3/33074/94, dated 23.9.1994 and Memo Roc.No.E3/33074/94, dated 11.9.1995 respectively.

The petitioner was appointed as Attender on compassionate grounds as per the proceedings, dated 20.4.1991 of the Executive Officer, Tirumala Tirupathi Devasthanam, Tirupathi. Accordingly, he joined duty on 24.4.1991. With effect from 24.4.1991 he became approved probationer in the cadre of Attender and his services were also confirmed in the same cadre. While so, R1 vide proceedings in Roc.No.E3/33074/94, dated 23.9.1994 reverted the petitioner from the post of Attender to the post of Agricultural Mazdoor and transferred him from S.V.Ayurvedic College to S.V.Diary Farm. The contention of the petitioner is that the said order is passed without notice and without any valid reasons. Aggrieved by the impugned proceedings dated 23.9.1994 reverting the writ petitioner from the post of

Attender to the post of Agricultural Mazdoor, W.P.No.18486 of 1994 is filed.

Whereas, against the orders, dated 11.9.1995 issued against the petitioner reverting him to the post of Agricultural Mazdoor, W.P.No.2154 of 1995 is filed.

The 1st respondent-Executive Officer filed counter affidavits in both the writ petitions *inter alia* denying the contentions. He further stated that when the proposals for regularisation of the petitioner's temporary services and declaration of probation were received from the Principal, S.V.Ayurvedic College, his credentials were examined. Then, it was found that the petitioner was not qualified to hold the post of Attender in T.T.D, and he was only a first standard discontinued candidate (as per the record sheet produced by himself). Considering the qualification actually acquired by the petitioner through regular study, which is only first standard (Elementary School), the order of appointment given to the petitioner was modified as Agricultural Mazdoor with effect from 24.4.1991. His temporary services were regularised as Agricultural Mazdoor with effect from 24.4.1991 vide orders E3-33074, dt.23.9.1994. The petitioner was appointed on compassionate grounds and compassionate appointments are made only on the basis of the qualification actually possessed by the appointee. He further stated that the petitioner has cheated the management of T.T.D by producing a certificate showing that he has appeared and failed at the SSC examination of Andhra Pradesh. As he did not possess a pass in VIII class as prescribed in the TTD Service Rules, he was considered to be appointed as

Agricultural Mazdoor with retrospective effect. The first respondent granted exemption to the petitioner from possessing the qualification prescribed for the post of Agricultural Mazdoor only because the petitioner was not found fit for the post of Attender.

The learned counsel appearing for the writ petitioner contended that after verifying the educational qualifications the petitioner was appointed as Attender and his services were confirmed. After having extracted the work as Attender, he cannot be reverted to the post of Agricultural Mazdoor due to which the petitioner will lose his promotional aspects.

On the other hand, the learned standing counsel appearing for the respondents contended that the minimum educational qualification prescribed for the post of Attender is VIIIth class but he was appointed without the minimum educational qualifications and the same has been noticed at the time of confirmation of petitioner's services and therefore, the proceedings were rightly issued and that there are absolutely no grounds to quash the proceedings impugned in these writ petitions. Hence, he prays to dismiss the writ petitions.

The facts are not in dispute. Originally, the petitioner was appointed as Attender on compassionate grounds vide proceedings dated 24.4.1991. The Executive Officer, T.T.D. Tirupathi requested the Medical Officer to scrutinize all the certificates and satisfy himself before permitting the petitioner for duty. So, the respondents ought to have taken care before issuing appointment orders when admittedly the writ petitioner did not possess the required minimum educational

qualifications. Having allowed the writ petitioner to work as Attender for about 3½ years, the impugned proceedings have been issued on the ground that he was not qualified to hold the post of Attender.

The learned counsel appearing for the petitioner relied upon a decision reported in **BHAGWATI PRASAD Vs. DELHI STATE MINERAL DEVELOPMENT CORPORATION**^[1] wherein their Lordships observed as follows:

“Once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications”.

So, in this case also, having allowed the petitioner to work as Attender for 3½ years the impugned proceedings have been issued by deleting his name from the seniority list of Attenders and including in the list of Agricultural Mazdoors. The respondents ought to have taken proper steps to verify whether the petitioner possesses required qualifications or not at the time of the petitioner joining as Attender. As a matter of fact, the Executive Officer also directed the Medical Officer to scrutinize the certificates of the petitioner with regard to the age and educational qualifications at the time of joining duty. If the Medical Officer acted diligently, then the present situation would not have arisen. It is also brought to the notice of this Court that

subsequently the petitioner acquired degree qualification and he has been discharging his duties properly and without any remark. The same has not been denied or disputed by the respondents' counsel. Therefore, in view of the above circumstances, it is not desirable to direct the petitioner to work as Agricultural Mazdoor particularly when the respondents allowed the petitioner to work as Attender for a considerable time which would cause irreparable hardship to the writ petitioner. Further more, without giving an opportunity to the petitioner, impugned orders have been passed reverting the writ petitioner from the post of Attender to the post of Agricultural Mazdoor. It is brought to the notice of this Court that in respect of other Attenders, exemption has been granted from acquiring minimum educational qualifications and the same should have been extended by the respondents in the case of the writ petitioner also.

Having regard to the facts and circumstances of the case, both the impugned proceedings are quashed. The writ petitioner is entitled for all consequential benefits.

For the aforementioned reasons, the writ petitions are allowed. In the circumstances of the case, there shall be no order as to costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the Sixteenth day of June, Two Thousand

and Four.

ASSISTANT REGISTRAR

16th June, 2004

//TRUE COPY//

SECTION OFFICER

To,

- 1 The Executive Officer Tirumala Tirupathi Devasthanams
Tirupathi, Chittoor Dist
- 2 The Principal S.V.Ayurvedic College
T.T.Devasthanams , Tirupathi,
Chittoor Dist
3. The Executive Engineer-VI,
TTDs Kalyananamandapam, Vijayawada
4. Two C.Ds.

Bcj/mvb

[\[1\]](#) AIR 1990 SC 371